

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WALCO FUNDING, LLC,)	
)	
Plaintiff,)	
)	
v.)	
)	Case No.
DRIVESMART AUTO CARE, INC.,)	
NATIONWIDE VEHICLE ASSURANCE)	
CORP. d/b/a MOTOR VEHICLE)	
ASSURANCE, and DANIEL J. RODD,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendants, DriveSmart Auto Care, Inc., Nationwide Vehicle Assurance Corp. d/b/a Motor Vehicle Assurance (hereinafter “MVA”), and Daniel J. Rodd, pursuant to 28 U.S.C. §1441, 28 U.S.C. §1446, and 28 U.S.C. §1332, file their Notice of Removal of this cause to the United States District Court for the Northern District of Illinois, from the Circuit Court of Cook County, Illinois, and respectfully state as follows:

1. On December 8, 2023, plaintiff WalCo Funding LLC filed a complaint against defendants in the Circuit Court of Cook County, Law Division, Cook County, Illinois, Case No. 2023 L 012436. (**Exhibit A**)
2. In its complaint, WalCo claims it is a payment plan provider for vehicle service contracts. WalCo alleges WalCo and DriveSmart entered into an administrator agreement that DriveSmart would receive a fee for each contract sold to a third-party consumer by MVA; WalCo and MVA entered into a marketer agreement that MVA would receive advanced funds from WalCo on behalf of the purchaser, for each contract sold to MVA by and accepted by WalCo. WalCo alleges that some purchasers canceled the contracts and MVA failed to refund those advanced

funds. WalCo filed a breach of contract action seeking an amount in excess of \$1,462,851.24 against MVA, it also named DriveSmart and Daniel J. Rodd as defendants as they guaranteed the refunds. (**Exhibit A, ¶¶ 37, 45, and 53**)

3. WalCo identified itself as a Delaware limited liability company with its principal place of business in Chicago, Illinois in the complaint; however, it was not clear who its members were or whether diversity of citizenship exists. (**Exhibit A, ¶2**)

4. On January 23, 2024, defendants served their first set of interrogatories to WalCo, asking it to identify its members' names, primary residency, business addresses and citizenship, or if the member is a business entity, identify its names, venue of incorporation, primary place of business, corporate offices, and agent of service. (**Exhibit B**)

5. On February 21, 2024, WalCo served its answer to defendants' interrogatories, identifying its members as Edward M. Walder Exempt Trust, Paul M. Walder Exempt Trust, and Lincoln Park Capital, LLC and disclosing Lincoln Park Capital as an Illinois entity with its office in Chicago. (**Exhibit C**)

6. In accordance with 28 U.S.C. §1446(a), attached within **Exhibits A and C** are copies of all process and pleadings that have been served upon defendants.

7. Pursuant to 28 U.S.C. §1446(b)(3)(A), defendants file this Notice of Removal within thirty days after the receipt by defendants of plaintiff's response to discovery. This Court has original jurisdiction over this matter as it is a civil action between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000.

There is Complete Diversity

8. Under 28 U.S.C. § 1332(a)(1), "[t]he district courts shall have original jurisdiction

of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different states.”

9. This action satisfies the complete diversity citizenship requirement of 28 U.S.C. §1332(a)(1).

10. According to its answer to interrogatories, each member of plaintiff WalCo appears to be a citizen of the State of Illinois. (**Exhibit C**)

11. Defendant DriveSmart Auto Care Inc. is a New Jersey corporation with its principal place of business in Toms River, New Jersey.

12. Defendant Nationwide Vehicle Assurance Corp. d/b/a Motor Vehicle Assurance is a New Jersey corporation with its principal place of business in Toms River, New Jersey.

13. Defendant Daniel J. Rodd is a citizen of the State of New Jersey.

14. This action satisfies the complete diversity of citizenship requirement set forth in 28 U.S.C. §1332(a)(1).

The Amount in Controversy Exceeds \$75,000

15. Plaintiffs’ Complaint seeks damages in excess of \$75,000. (**Exhibit A, ¶¶ 37, 45, and 53**). As such, this Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332.

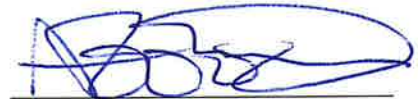
This Notice of Removal is Timely

16. This Notice of Removal is filed within 30 days after service of the answer to interrogatories on defendants (**Exhibit C**).

17. Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Cook County, Illinois.

WHEREFORE, defendants, DriveSmart Auto Care, Inc., Nationwide Vehicle Assurance Corp. d/b/a Motor Vehicle Assurance, and Daniel J. Rodd respectfully request that this case be heard in this Court as an action properly removed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on March 13, 2024, he caused a copy of the attached **Notice of Removal** to be served upon:

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